



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO

GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT

Pristina, 22 March 2011

Ref. No.: RK 106/11

RESOLUTION ON INADMISSIBILITY

in

Case No. KI 101/10

Applicant

Ismet Hebibi

**Constitutional Review of the Judgment of the Supreme Court of Kosovo
Rev.l.no.165/2004, dated 9 November 2004**

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of:

Enver Hasani, President
Kadri Kryeziu, Deputy-President
Robert Carolan, Judge
Altay Suroy, Judge
Almiro Rodrigues, Judge
Snezhana Botusharova, Judge
Ivan Čukalović, Judge
Gjyljeta Mushkolaj, Judge and
Iliriana Islami, Judge

Applicant

1. The Applicant is Ismet Hebibi residing in Junik.

Challenged Decision

2. The Applicant challenges the Judgment of the Supreme Court of Kosovo Rev.l.no.165/2004, dated 9 November 2004.

Subject Matter

3. The Applicant deems that his right to work and the right to compensation as provided by law have been violated.
4. The Applicant requests from the Constitutional Court to remand his case for retrial, alleging that the Ministry of Health, CFM "Adem Ukëhaxhaj" and CFM "Dr. Ali Hoxha" in Junik violated his rights and did not act in a legal way.

Legal Basis

5. Article 113.7 of the Constitution of the Republic of Kosovo; Article 20 of Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (hereinafter referred to as the Law), and Rule 36 of the Rules of Procedure of the Constitutional Court of the Republic of Kosovo.

Proceedings before the Court

6. On 11 October 2010 the Applicant filed a Referral with the Secretariat of the Constitutional Court.
7. On 19 January 2011, the Constitutional Court notified the Supreme Court that the Applicant challenges the Judgment that the Supreme Court adopted.
8. The Constitutional Court has not received a reply from the Supreme Court.
9. On 21 February 2011 after having considered the Report of the Judge Rapporteur Altay Suroy, the Review Panel, composed of judges, Almiro Rodrigues (Presiding), Gjyljeta Mushkolaj and Iliriana Islami, made a recommendation to the full Court on the inadmissibility of the Referral.

Summary of the facts

10. The Applicant was employed at the Medical Center in Deçan with the duties of Doctor of General Practice. On 17 September 1992 with the decision no.126 of the Medical Center in Deçan terminated the labour relation with the Applicant.
11. On 12 February 2001 the Municipal Court of Deçan Judgment C.l.no.18/2000, quashed the Decision no.126 dated 17 September 1992 of the Medical Center in Deçan and compelled the respondent (i.e. Medical Center in Deçan) to reinstate the Applicant in to labour relation. The respondent was also obliged to compensate the court proceedings expenses in the amount of 60 Deutsche Marks.
12. On 9 July 2001 the District Court of Peja Judgment Ac.nr.65/2001 Rejected the appeal of the Medical Center "Adem Ukëhaxhaj" and confirmed the the Municipal Court of Deçan Judgment C..no.18/2000, dated 12 February 2001.
13. On 28 December 2001 the Applicant filled a revision to the Supreme Court of Kosovo requesting the quashing the Judgment of the District Court in Peja and adjudicating the

compensation of his income for the period from 1 November 1991 until 31 September 2001.

14. On date 9 November 2004 the Supreme Court of Kosovo rendered Judgment Rev.l.no.165/2004 in the Applicant's case and rejected as ungrounded the District Court of Peja Judgment Ac.nr.108/2003, dated 13 July 2004 , and rejected the Applicant's revision.
15. On date 14 February 2005 the Applicant submitted to the Ombudsperson Institution of Kosovo a request for compensation of personal incomes.

Applicant's allegation

16. The Applicant complains that he was legally harmed, prosecuted and manipulated by an arbitrary justice. He claims that he was entitled to return to work and to have the compensation of personal income form the Ministry of Health and the Center for Family Medicine "Adem Ukëhaxhaj" in Deçan and also from the Center for Family Medicine "Dr. Ali Hoxha" in Junik.

Assessment of the Admissibility of the Referral

17. In order to be able to adjudicate the Applicants' Referral, the Court needs first to examine whether the Applicant has fulfilled the admissibility requirements laid down in the Constitution as further specified in the Law and the Rules of Procedure.
18. As to the Applicant's Referral, the Court notes that the Applicant complains of the Judgment Rev.no.165/2004 of the Supreme Court which is dated 9 November 2004. This means that the Referral relates to events prior to 15 June 2008 that is the date of the entry into force of the Constitution of the Republic of Kosovo.
19. It follows that the Applicant's referral is incompatible "*ratione temporis*" with the provisions of the Constitution (see *mutatis mutandis* Jasiùniené v. Lithuania, Application no. 41510/98, ECHR Judgments of 6 March and 6 June 2003) and it does not fall under the jurisdiction of the Constitutional Court as provided by Article 56 of the Law on the Constitutional Court.

FOR THESE REASONS

The Constitutional Court, pursuant to Article 113(7) of the Constitution, Article 20 of the Law on the Constitutional Court, and Rule 36 of the Rules of Procedure, unanimously,

DECIDES

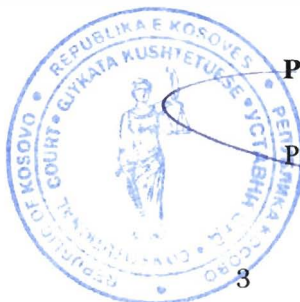
- I. TO REJECT this Referral as Inadmissible;

The Decision shall be notified to the Parties and shall be published in the Official Gazette, in accordance with Article 20.4 of the Law on the Constitutional Court.

This Decision is effective immediately.

Judge Rapporteur

Altay Suroy



President of the Constitutional Court

Prof. Dr. Enver Hasani